

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-04 INR-07 L-03 ACDA-07

NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00

SAJ-01 MC-02 ERDA-05 OES-06 NRC-05 COME-00 /078 W

----- 044992

R 091615Z SEP 76

FM USMISSION NATO

TO SECDEF WASHDC

SECSTATE WASHDC 9316

INFO USMISSION OECD PARIS

LIMITED OFFICIAL USE USNATO 4886

SECDEF PASS TO ODDR&E/MR. BASIL

E.O. 11652: N/A

TAGS: ETRD, TECH, MILI, ESTC

SUBJ: EXPORT CONTROL OF US TECHNOLOGY

SUMMARY. AT WASHINGTON REQUEST WE HAVE REVIEWED THE DEFENSE SCIENCE BOARD TASK FORCE REPORT ON EXPORT CONTROL OF US TECHNOLOGY (BUCY REPORT). WE FOUND THE REPORT USEFUL BUT INCOMPLETE WITH RESPECT TO CONTROL OF US TECHNOLOGY RELEASE TO ALLIES. WE RECOMMEND THAT WASHINGTON FOCUS ON THIS PROBLEM ON A PRIORITY BASIS. END SUMMARY.

1. AT THE REQUEST OF THE OFFICE OF DEFENSE RESEARCH AND ENGINEERING, WE HAVE REVIEWED THE REPORT BY THE DEFENSE SCIENCE BOARD TASK FORCE ON EXPORT OF US TECHNOLOGY DATED 4 FEBRUARY 1976. WE NOTE THAT THE REPORT IS RESPONSIVE TO ITS CHARTER WITH RESPECT TO CONTROLLING US TECHNOLOGY TRANSFER TO COMMUNIST NATIONS AND, TO A LESSER EXTENT, WITH CONTROL OF TECHNOLOGY RELEASE TO NEUTRAL NATIONS. FOR OUR PURPOSES, HOWEVER, IT DOES NOT GO FAR ENOUGH. FOR IT FAILS TO DEAL WITH THE FLOW OF MILITARY-RELATED TECHNOLOGY TO OUR NATO ALLIES. THIS FLOW, WHICH WE FEEL LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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MUST BE BOTH ADEQUATELY CONTROLLED AND YET ADEQUATELY FACILITATED, HAS IMPORTANT IMPLICATIONS FOR COOPERATIVE WEAPONS DEVELOPMENT, ENCOURAGEMENT OF STANDARDIZATION, AND FACILITATION OF THE "TWO WAY STREET."

2. WE HAVE HAD EXTENSIVE DISCUSSIONS OF THE PROBLEMS RELATED TO TECHNOLOGY TRANSFER WITH US CONTRACTORS ENGAGED IN COOPERATIVE VENTURES WITH EUROPEAN INDUSTRIES. THE US FIRMS INCLUDE, AMONG OTHERS, FORD AERONEUTRONIC, MCDONNELL-DOUGLAS, RAYTHEON, NORTHROP, AND GENERAL DYNAMICS. FROM THESE DISCUSSIONS WE HAVE COMPILED SOME CONTRACTOR OBSERVATIONS WHICH ARE SET FORTH BELOW. AMONG THE FIRMS INTERVIEWED, THERE IS A REASONABLY GENERAL CONSENSUS ON THE POINTS NOTED.

A. NO PROCEDURES HAVE BEEN PUBLISHED BY OSD(DDR&E) TO GUIDE COMPANIES IN ACHIEVING APPROVAL FOR CO-OP PROGRAMS; THUS, ONLY THOSE PROGRAMS WHICH ARE "COOKED UP" BETWEEN GOVERNMENTS TEND TO HAVE A GOOD POTENTIAL FOR SUCCESS. FURTHER, LICENSE APPLICATIONS ARE SUBJECTED TO A LENGTHY, CUMBERSOME, CASE-BY-CASE ANALYSIS, AS IS NOTED IN THE CONCLUSIONS OF THE DEFENSE SCIENCE BOARD REPORT ON PAGE 34.

B. WE TREAT COOPERATIVE R&D PROGRAMS AND CO-PRODUCTION PROGRAMS IN THE SAME MANNER WHEN, IN FACT, FROM A TECHNOLOGY TRANSFER POINT OF VIEW THEY ARE RARELY COMPARABLE. WHEN A SYSTEM IS ADEQUATELY MATURE (FIELDED IN THE U.S. INVENTORY) AND A FOLLOW-ON SYSTEM IS WELL ALONG IN RDT&E SUCH THAT (REVIEWED ON A CASE-BY-CASE BASIS) ONE COULD CONCLUDE THE U.S. HAD REACHED THE NEXT STEP TECHNOLOGICALLY, THEN THE MATURE SYSTEM SHOULD BE RELEASED FOR CO-PRODUCTION EFFORTS IN ALLIED COUNTRIES BEFORE IT IS JUDGED TO BE OBSOLETE.

C. TWO DEFENSE CONTRACTORS (ONE US, ONE IN AN ALLIED COUNTRY) CAN USUALLY GO ONLY SO FAR IN THE DEVELOPMENT OF A COOPERATIVE R&D EFFORT, AFTER WHICH THEY MUST ACQUIRE, NORMALLY FROM BOTH GOVERNMENTS, AT LEAST PASSIVE APPROVAL BEFORE ADDITIONAL MONIES CAN BE SPENT. BECAUSE OF THE LACK OF A STATED NATIONAL CO-OP R&D PLAN AND PROCEDURES, THIS NECESSARY GOVERNMENT SPONSORSHIP IS EXCEEDINGLY DIFFICULT TO OBTAIN.

D. QUID PRO QUO PROGRAMS, WHERE TWO FIRMS IN ALLIED COUNTRIES TRANSFER TECHNOLOGY BOTH WAYS, PRESUMABLY TO THE MUTUAL BENEFIT OF BOTH AND WITH LITTLE OR NO CASH FLOW, HAVE IMMENSE POSSIBILITIES, BOTH FOR THE FIRMS INVOLVED AND FOR THE DEFENSE EFFORTS OF THEIR NATIONS. AERONEUTRONIC FORD, IN CONCERT WITH MARCONI LIMITED OFFICIAL USE
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SPACE AND DEFENSE SYSTEMS, LTD., IN THE UNITED KINGDOM, WAS ONE OF THE FIRST US FIRMS TO DEMONSTRATE SUCCESSFULLY THIS FORM OF AGREEMENT. AGAIN, HOWEVER, THERE ARE NO ESTABLISHED PROCEDURES TO PROMOTE SUCH PROGRAMS.

E. THE ABSENCE OF AGREED US PROCEDURES MAKES IT UNUSUALLY DIFFICULT TO ENTER INTO A PROGRAM IN WHICH A US FIRM CONDUCTS STUDIES OF A TECHNICAL NATURE FOR A POTENTIAL CUSTOMER OR R&D TEAMMATE IN AN ALLIED COUNTRY. SINCE APPLICATION FOR A TECHNICAL DATA EXPORT LICENSE CANNOT BE MADE UNTIL THE STUDY IS COMPLETE AND THE EXACT NATURE OF THE TECHNOLOGY TO BE RELEASED IS KNOWN, THE ALLIED CUSTOMER OR FIRM IS, IN FACT, BEING ASKED TO FUND A STUDY WITH THE POSSIBILITY THAT THE RESULTS

MAY NEVER BE PROVIDED SHOULD CONSIDERATION BY THOSE IN THE MUNITIONS CONTROL LOOP DETERMINE THAT RELEASE IS NOT IN THE BEST INTEREST OF THE US GOVERNMENT. OBVIOUSLY, THE SOLUTION IS TO ACHIEVE AGREEMENT AHEAD OF TIME ON WHAT WILL BE STUDIED AND ON THE RELEASABILITY OF THE OUTPUT BASED UPON THE NATURE OF THE STUDY AND THE LIKELY CONTENT OF THE OUTPUT. THE FINAL OUTPUT WOULD, OF COURSE, BE REVIEWED, BUT WITH A VIEW TOWARD DETERMINING ONLY WHETHER IT EXCEEDS THE INTENT OF THE ORIGINAL AGREEMENT.

F. ANOTHER PROBLEM PERTAINS TO CONFLICT WITHIN CO-OPERATIVE VENTURES BETWEEN ALLIED COUNTRIES (OR FIRMS) WHERE THERE IS AN EMERGING US REQUIREMENT. FOR EXAMPLE, ASSUME A NATO REQUIREMENT EXISTS FOR A SELF-PROPELLED AIR DEFENSE GUN, AND THAT TWO FIRMS, ONE IN THE US AND ONE FROM AN ALLIANCE NATION, HAVE PARTICIPATED IN NATO INDUSTRIAL ADVISORY GROUP STUDIES AND BELIEVE THAT JOINTLY THEY CAN PROPOSE A SYSTEM WHICH WILL FULFILL THE REQUIREMENT. ASSUME FURTHER THAT THEY FORM A TEAM IN WHICH THE VEHICLE AND FIRE CONTROL SYSTEM WOULD BE A US DEVELOPMENT, WITH THE GUN AND AMMUNITION TO BE DEVELOPED BY THE ALLIANCE NATION, AND THAT MATTERS HAVE PROCEEDED TO THE POINT WHERE SECURITY CLEARANCES AND DATA LICENSES ARE REQUIRED TO PERMIT MEETINGS TO BEGIN AT A FUNDAMENTAL ENGINEERING LEVEL. THE US FIRM INITIATES A DATA LICENSE APPLICATION, ATTACHING TO IT A "BEST ESTIMATE" OF THE DATA WHICH NEEDS TO BE SHARED (DIFFICULT, SINCE THERE IS LITTLE KNOWLEDGE OF WHAT QUESTIONS WILL EMERGE IN A MEETING), AND THE APPLICATION ENTERS THE MUNITIONS CONTROL CYCLE. WITHIN OSD-ISA, THE APPLICATION IS DISSEMINATED TO THE COGNIZANT OFFICES IN ALL THREE SERVICES. WHEN IT REACHES THE ARMY STAFF ACTION OFFICER FOR AIR DEFENSE LIMITED OFFICIAL USE
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GUNDS, HE QUICKLY PERCEIVES THAT IT "FLIES IN THE FACE" OF AN EMERGING US REQUIREMENT FOR A SIMILAR SYSTEM. THE US REQUIREMENT IS BOGGED DOWN BY DISAGREEMENT ON VARIOUS USER QUESTIONS AND WILL BE AT LEAST A YEAR BEFORE BECOMING AN APPROVED REQUIRED OPERATIONAL CAPABILITY (ROC). POSSIBLY A SECOND YEAR WILL ELAPSE BEFORE THE AIR DEFENSE GUN RECEIVES FULL APPROVAL AND BECOMES A PROGRAM AND A BUDGET LINE ITEM. APPROVAL OF THIS JOINT VENTURE AIMED AT A NATO REQUIREMENT, REASONS THE R&D STAFF OFFICER, IMPROPERLY IMPLIES US ARMY APPROVAL OF THE NATO REQUIREMENT DOCUMENT WHICH WILL PROBABLY DIFFER FROM THE EMERGING ROC. ADDITIONALLY, THE VERY EXISTENCE OF THE SYSTEM PROPOSED BY THE US AND ITS ALLY COMPLICATES A PROCUREMENT WHICH THE US ARMY DESIRES TO BE AN "UNCLUTTERED" COMPETITIVE PROTOTYPE R&D EFFORT. THE NET RESULT IS USUALLY A DETERMINATION BY THE STAFF OFFICER THAT RELEASE OF THE TECHNOLOGY IS NOT IN THE BEST INTEREST OF THE US, WITH A RECOMMENDATION THAT THE REQUEST BE DISAPPROVED. THUS, A DECISION ON THE PART OF A STAFF OFFICER WHICH IS NOT LIKELY TO RECEIVE EXTENSIVE CRITICAL REVIEW AT HIGHER LEVELS, CAN EITHER KILL A COOPERATIVE INDUSTRIAL EFFORT, OR AT LEAST IMPOSE A SUBSTANTIAL DELAY.

3. WE HAVE NOTED WITH CONCERN THE FRUSTRATION OF TECHNOLOGI-
CALLY ADVANCED NATIONS, SUCH AS THE FRG, WHICH ARE NO LONGER
WILLING TO ACCEPT TECHNOLOGY THAT IS OLDER THAN FIVE YEARS.
FACED WITH A DENIAL OF THAT ADVANCED TECHNOLOGY, ALLIED
NATIONS ARE INCREASINGLY PRONE TO PROCEED WITH DUPLICATIVE
DEVELOPMENTS IN HIGH TECHNOLOGY AREAS ALTHOUGH THEY RECOGNIZE
THEIR EFFORTS MAY TAKE FROM FIVE TO 10 YEARS TO COME TO
FRUITION. THEN, OF COURSE, THEY FIND THEMSELVES STILL FIVE
TO 10 YEARS BEHIND THE US, BUT AT LEAST WHAT THEY HAVE DEVELOPED
CAN BE STAMPED "MADE IN EUROPE". THIS APPROACH HAS, OF COURSE,
A SIGNIFICANT ADVERSE EFFECT ON STANDARDIZATION AND INTER-
OPERABILITY.

4. WE RECOGNIZE, OF COURSE, THAT THE STRINGENCY WITH WHICH
TECHNOLOGY IS CONTROLLED TO UR ALLIES IS RELATED TO THE
ADEQUACY OF THEIR OWN CONTROLS ON THE RETRANSMISSION AND RE-
EXPORT OF SUCH TECHNOLOGY TO OTHER PARTIES. WE WOULD HOPE
TO BE KEPT INFORMED OF DEVELOPMENTS IN THIS FIELD (E.G., AT
THE FORTHCOMING MEETING OF THE COCOM SUB-COMMITTEE ON EXPORT
CONTROL) AND WOULD URGE THAT INTERESTED WASHINGTON AGENCIES TAKE
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ACCOUNT OF THE PROBLEMS AND IRRITANTS RECOUNTED IN PARAS 2
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MENDATIONS. STREATOR

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Message Attributes

Automatic Decaptioning: X
Capture Date: 30 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 09 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976NATO04886
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: NATO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197609107/baaaaynn.tel
Line Count: 194
Locator: TEXT ON-LINE
Office: n/a
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 07 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 APR 2004 by BoyleJA>; APPROVED <29 JUL 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: ETRD, TECH, MILI, ESTC
To: SECDEF
STATE INFO OECD PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006